[redacted]

IN THE

Supreme Court of the United States

OCTOBER TERM, 1961

No. [redacted] 7

EDELAND, ET AL., *Appellants*

v.

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS, ET AL., *Appellees*

Appeal from the Three-Judge United States District Court, Eastern District of Louisiana

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BRIEF IN OPPOSITION TO APPELLEES' MOTION TO DISMISS OR AFFIRM

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Press of Byron S. Adams, Washington, D. C.

IN THE

Supreme Court of the United States

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No. 421

ENGLAND, ET AL., *Appellants*

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BRIEF IN OPPOSITION TO APPELLEES' MOTION TO DISMISS OR AFFIRM

The Motion is erroneously concerned with the merits, which are in no way raised on this appeal.[1] The quotation in the first full paragraph on page 3 about the "unsubstantial" issues, is completely ficti-

[1] The law of the case is settled by the Fifth Circuit decision that the complaint states a good cause of action. *England* v. *La. State Board of Medical Examiners*, 259 F. 2d 626 (5th Cir. 1958), *reh. den.* 263 F. 2d 661 (5th Cir. 1959), *cert. den.* 359 U. S. 1012 (1959).

tious. No such remarks were made by the lower court. The only question decided there, or raised on appeal here, is one of procedure.

Recognizing the procedural problem, the lower court plaintively chorused per curiam, "We can see no way out of the dilemma." Obviously, that dilemma requires the attention of this Court; it is plainly substantial. The merits are in no way involved, but only a question of procedure in federal constitutional courts.

The Motion to Dismiss or Affirm should be denied.

Respectfully submitted,

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PROOF OF SERVICE

I, Russell Morton Brown, one of the attorneys for Appellants herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the 1st day of November, 1961, copies of the foregoing Brief in Opposition to Appellee's Motion to Dismiss or Affirm were served on the appellees and intervenors herein by air-mailing same in duly addressed envelopes with postage prepaid to their attorneys of record, as follows:

To Robert E. LeCorgne, Jr., 1320 National Bank of Commerce Building, New Orleans 12, Louisiana; St. Clair Adams, Jr., 847 National Bank of Commerce Building, New Orleans 12, Louisiana, attorneys for Louisiana State Board of Medical Examiners; and, Ashton Phelps, 420 Hibernia Bank Building, New Orleans 12, Louisiana, attorney for Louisiana State Medical Society, Intervenor.

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